

86th Legislative Session – 2011

Committee: Senate Education

Tuesday, February 01, 2011

P - Present
E - Excused
A - Absent

Roll Call

P Bradford
P Gray
P Kraus
P Rave
P Schlekeway
P Johnston, Vice-Chair
P Garnos, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Cooper Garnos, Chair.

MOTION: TO APPROVE THE MINUTES OF THURSDAY, JANUARY 27, 2011

Moved by: Kraus
Second by: Johnston
Action: Prevailed by voice vote.

MOTION: TO INTRODUCE AT THE REQUEST OF THE GOVERNOR AN ACT TO REVISE CERTAIN PROVISIONS RELATED TO SCHOOL DISTRICT FUND BALANCES.

Moved by: Johnston
Second by: Schlekeway
Action: Prevailed by roll call vote. (6-0-1-0)

Voting Yes: Gray, Kraus, Rave, Schlekeway, Johnston, Garnos

Excused: Bradford

THE CHAIR DEFERRED SB 63 UNTIL ANOTHER DAY

SB 72: revise how certain kindergarten students are counted for the purpose of state aid to education funding, and to establish in statute the minimum number of hours required in a school term for grades one through three.

Presented by: Senator Deb Peters

Proponents: Representative Jacqueline Sly

Opponents: Dick Tieszen, Rapid City School District

Jim Hutmacher, Mid Size Schools

Dianna Miller, Large School Group

Sandra Waltman, SD Education Association

Wayne Lueders, Associated School Boards of SD

MOTION: AMEND SB 72

72cb

On page 2 of the printed bill, delete lines 16 to 24, inclusive, and insert:

- "(2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the current school year minus the number of students for whom the district receives tuition, except nonresident students who are in the care and custody of a state agency and are attending a public school and students for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition. Any student enrolled in a kindergarten program operating for less than eight hundred and seventy-five hours, exclusive of intermissions, in a school term shall be counted on a pro rata basis as follows:
- (a) For fiscal year 2012, any such student shall be counted as 0.75 fall enrollment; and
 - (b) For fiscal year 2013 and thereafter, any such student shall be counted on a pro rata basis according to the number of hours of operation of the program in which the student is enrolled.

When computing state aid to education for a school district under the foundation program pursuant to § 13-13-73, the secretary of the Department of Education shall use either the school district's fall enrollment or the average of the school district's fall enrollment from the previous two years, whichever is higher;".

On page 3, delete lines 1 to 4, inclusive."

Moved by: Rave

Second by: Kraus

Action: Prevailed by voice vote.

MOTION: AMEND SB 72

72cc

On page 5, after line 15 of the printed bill, insert:

"

Section 3. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as follows:

Any money appropriated for state aid to general education that is in excess of the amount of money necessary to meet the entitlement provided for in this chapter and to meet any shortfall pursuant to subdivision 13-13-73(4) is not subject to reversion pursuant to § 4-8-19 and shall be distributed to all school districts receiving state aid pursuant to this chapter on a pro rata basis according to each eligible school district's fall enrollment compared to the total fall enrollment of all eligible school districts."

Moved by: Kraus
Second by: Johnston
Action: Prevailed by voice vote.

MOTION: DO PASS SB 72 AS AMENDED

Moved by: Kraus
Second by: Rave
Action: Prevailed by roll call vote. (4-3-0-0)

Voting Yes: Kraus, Rave, Schlekeway, Johnston

Voting No: Bradford, Gray, Garnos

MOTION: AMEND TITLE OF SB 72

72cta

On page 1, line 2, of the printed bill, delete "and".

On page 1, line 3, after "three" insert ", and to provide for the redistribution of certain funds appropriated for state aid to education".

Moved by: Rave
Second by: Schlekeway
Action: Prevailed by voice vote.

SB 85: revise the calculation of the small school adjustment in the state aid to education formula, and to provide for the redistribution of certain funds appropriated for state aid to education.

Presented by: Senator Deb Peters
Proponents: Dianna Miller, Large School Group
Opponents: Scott Swier, Small School Adjustment Alliance
Tom Culver, Superintendent, Avon School
Tony Simons, Superintendent, Elkton School
Jim Hutmacher, Mid Size Schools
Representative Bill Van Gerpen
Sandra Waltman, SD Education Association
Jim Terwilliger, Bureau of Finance and Management
Keith McVay, Superintendent, Smee School, Wakpala

MOTION: AMEND SB 85

85ca

On the printed bill, delete everything after the enacting clause and insert:

"

Section 1. That § 13-13-10.1 be amended to read as follows:

13-13-10.1. Terms used in this chapter mean:

- (1) "Average daily membership," the average number of resident and nonresident kindergarten through twelfth grade pupils enrolled in all schools operated by the school district during the previous regular school year, minus average number of pupils for whom the district receives tuition, except pupils described in subdivision (1A) and pupils for whom tuition is being paid pursuant to § 13-28-42.1 and plus the average number of pupils for whom the district pays tuition;
- (1A) Nonresident students who are in the care and custody of the Department of Social Services, the Unified Judicial System, the Department of Corrections, or other state agencies and are attending a public school may be included in the average daily

membership of the receiving district when enrolled in the receiving district. When counting a student who meets these criteria in its general enrollment average daily membership, the receiving district may begin the enrollment on the first day of attendance. The district of residence prior to the custodial transfer may not include students who meet these criteria in its general enrollment average daily membership after the student ceases to attend school in the resident district;

- (2) "Adjusted average daily membership," calculated as follows:
- (a) For districts with an average daily membership of two hundred or less, multiply 1.2 times the average daily membership;
 - (b) For districts with an average daily membership of less than six hundred, but greater than two hundred, raise the average daily membership to the 0.8293 power and multiply the result times 2.98;
 - © For districts with an average daily membership of six hundred or more, multiply 1.0 times their average daily membership;
- (2A) "Fall enrollment," the number of kindergarten through twelfth grade students enrolled in all schools operated by the school district on the last Friday of September of the current school year minus the number of students for whom the district receives tuition, except nonresident students who are in the care and custody of a state agency and are attending a public school and students for whom tuition is being paid pursuant to § 13-28-42.1, plus the number of students for whom the district pays tuition. When computing state aid to education for a school district under the foundation program pursuant to § 13-13-73, the secretary of the Department of Education shall use either the school district's fall enrollment or the average of the school district's fall enrollment from the previous two years, whichever is higher;
- (2B) Repealed by SL 2010, ch 84, § 1.
- (2C) "Small school adjustment," calculated as follows:
- (a) For districts with a fall enrollment of two hundred or less, multiply 0.2 times \$4,237.72;
 - (b) For districts with a fall enrollment of greater than two hundred, but less than six hundred, multiply the fall enrollment times negative 0.0005; add 0.3 to that result; and multiply the sum obtained times \$4,237.72;

The total fall enrollment of a school district determines if a school district falls into either category (a) or category (b) above or is not eligible to receive the small school adjustment. However, the determination of the small school adjustment for a school district may not include any students residing in a residential treatment facility when the education program is operated by the school district. In addition, if the fall enrollment of a school district includes any student who is participating in the enrollment options program pursuant to § 13-28-40, the small school adjustment calculated for the student is based upon either the fall enrollment of that student's resident school district or the fall enrollment of the school district in which the student is enrolled, whichever is greater. If either the student's resident school district or the receiving school district is not eligible to receive the small school adjustment based upon the size of its fall enrollment, no small

school adjustment may be calculated for that student in the receiving school district even if the receiving school district is otherwise eligible for a small school adjustment based on its fall enrollment. However, the provisions in this subdivision relative to students participating in the enrollment options program do not apply to any student in the enrollment options program who enrolls in a school district defined as sparse pursuant to § 13-13-78, and the small school adjustment calculated for that student is based on the fall enrollment of the receiving sparse school district;

- (3) "Index factor," is the annual percentage change in the consumer price index for urban wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;
- (4) "Per student allocation," for school fiscal year 2011 is \$4,804.60. Each school fiscal year thereafter, the per student allocation is the previous fiscal year's per student allocation increased by the index factor;
- (5) "Local need," is the sum of:
 - (a) The per student allocation multiplied by the fall enrollment; and
 - (b) The small school adjustment, if applicable, multiplied by the fall enrollment;
- (6) "Local effort," the amount of ad valorem taxes generated in a school fiscal year by applying the levies established pursuant to § 10-12-42;
- (7) "General fund balance," the unreserved fund balance of the general fund, less general fund exclusions plus, beginning with transfers made in fiscal year 2001, any transfers out of the general fund for the previous school fiscal year;
- (8) "General fund balance percentage," is a school district's general fund balance divided by the school district's total general fund expenditures for the previous school fiscal year, the quotient expressed as a percent;
- (9) "General fund base percentage," is the lesser of:
 - (a) The general fund balance percentage as of June 30, 2011; or
 - (b) The maximum allowable percentage for that particular fiscal year as stated in this subsection.

For fiscal year 2008, the maximum allowable percentage is one hundred percent; for fiscal year 2009, eighty percent; for fiscal year 2010, sixty percent; for fiscal years 2011 to 2014, inclusive, forty percent for each fiscal year; for fiscal year 2015 and subsequent fiscal years, twenty-five percent. However, the general fund base percentage may always be at least twenty-five percent;

- (10) "Allowable general fund balance," the general fund base percentage multiplied by the district's general fund expenditures in the previous school fiscal year;
- (11) "General fund exclusions," revenue a school district has received from the imposition of the excess tax levy pursuant to § 10-12-43; revenue a school district has received from gifts, contributions, grants, or donations; revenue a school district has received under the provisions of §§ 13-6-92 to 13-6-96, inclusive; revenue a school district has received as compensation for being a sparse school district under the terms of §§ 13-13-78 and 13-13-79; any revenue a school district has received under the provisions of the American

Recovery and Reinvestment Act of 2009 (P.L. 111-5); and any revenue in the general fund set aside for a noninsurable judgment."

Section 2. That § 13-13-73 be amended to read as follows:

13-13-73. The secretary of the Department of Education shall compute state aid to education for each school district under the foundation program according to the following calculations:

- (1) Determine each school district's fall enrollment;
- (2) To arrive at the local need per district:
 - (a) Multiply the per student allocation by the fall enrollment;
 - (b) ~~Multiply the small school adjustment, if applicable, by the fall enrollment~~ Divide the total fall enrollment into subgroups based upon the small school adjustment applicable to each subgroup as calculated pursuant to subdivision 13-13-10.1(2C), and multiply the fall enrollment within each subgroup by the small school adjustment appropriate for that subgroup; and
 - (c) Add the product of subsection (a) to the product or products of subsection (b);
- (3) State aid is (a) local need minus local effort, or (b) zero if the calculation in (a) is a negative number;
- (4) If the state aid appropriation for the general support of education is in excess of the entitlement provided for in this section, the excess shall be used to fund any shortfall of the appropriation as provided for in § 13-37-36.3. The secretary shall report to the Governor by January seventh of each year, the amount of state aid necessary to fully fund the general aid formula in the current year. If a shortfall in the state aid appropriation for general education exists that cannot be covered by § 13-37-45, the Governor shall inform the Legislature and provide a proposal to eliminate the shortfall.

Section 3. That § 13-28-40 be amended to read as follows:

13-28-40. An enrollment options program is established to enable any South Dakota kindergarten through twelfth grade student to attend any public school that serves the student's grade level in any South Dakota school district, subject to the provisions in §§ 13-28-40 to 13-28-47, inclusive. For purposes of determining state aid to education as it relates to the provisions of §§ 13-28-40 to 13-28-47, inclusive, fall enrollment as defined in § 13-13-10.1 is used to compute foundation aid and ~~special~~ any small school adjustment as calculated pursuant to subdivision 13-13-10.1(2C) to which a school district is entitled for any student participating in this program is based on either the fall enrollment of the student's resident school district or the receiving school district, whichever is greater. However, if a school district defined as sparse pursuant to § 13-13-78 is the receiving district, the small school adjustment for all students enrolled in that district is based on the fall enrollment of the sparse school district. Special education average daily membership as defined in § 13-37-35.1 is used to determine funding for special education.

Section 4. That chapter 13-13 be amended by adding thereto a NEW SECTION to read as

follows:

Any money appropriated for state aid to general education that is in excess of the amount of money necessary to meet the entitlement provided for in this chapter, and to meet any shortfall pursuant to subdivision 13-13-73(4) is not subject to reversion pursuant to § 4-8-19, and shall be distributed to all school districts receiving state aid pursuant to this chapter on a pro rata basis according to each eligible school district's fall enrollment compared to the total fall enrollment of all eligible school districts.

Moved by: Gray
Second by: Schlekeway
Action: Prevailed by voice vote.

MOTION: DO PASS SB 85 AS AMENDED

Moved by: Gray
Second by: Kraus
Action: Failed by roll call vote. (2-5-0-0)

Voting Yes: Gray, Kraus

Voting No: Bradford, Rave, Schlekeway, Johnston, Garnos

MOTION: SUBSTITUTE MOTION DEFER SB 85 TO THE 41ST LEGISLATIVE DAY

Moved by: Rave
Second by: Johnston
Action: Prevailed by roll call vote. (5-2-0-0)

Voting Yes: Bradford, Rave, Schlekeway, Johnston, Garnos

Voting No: Gray, Kraus

SB 137: require school districts and regental institutions to adopt a policy prohibiting hazing.

Presented by: Senator Bob Gray
Proponents: Katherine Van Gerpen, Self, Pierre
Jack Gordon, Self, Sioux Falls
Sandra Waltman, SD Education Association
Opponents: Wade Pogany, Department of Education
Dick Tieszen, Sioux Falls School District

John Pedersen, School Administrator of South Dakota
Wayne Lueders, Associated School Boards of SD
Charlie Flowers, SD Coalition of Schools

MOTION: DO PASS SB 137

Moved by: Schlekeway
Second by: Gray
Action: Prevailed by roll call vote. (4-3-0-0)

Voting Yes: Bradford, Gray, Rave, Schlekeway

Voting No: Kraus, Johnston, Garnos

MOTION: ADJOURN

Moved by: Johnston
Second by: Gray
Action: Prevailed by voice vote.

Cheri Hauschild
Committee Secretary

Cooper Garnos, Chair